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McCARTER & ENGLISH, LLP
100 Mulberry Street
Four Gateway Center
Newark, New Jersey 17102
Attorney for Defendants
Physicians Health Services, Inc. and
Physicians Health Services of New Jersey, Inc.
BJP - 0040

RECEIVED

APR 25 2002

AT 8:30 _____ M
WILLIAM T. WALSH, CLERK

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

ZEV WACHTEL and LINDA WACHTEL,
individually and on behalf of their minor son,
TORY WACHTEL,

Plaintiffs,

v.

GUARDIAN LIFE INSURANCE CO. OF
AMERICA, PHYSICIANS HEALTH SERVICES,
INC., and PHYSICIANS HEALTH SERVICES
OF NEW JERSEY, INC.

Defendants.

Docket No. 2:01-cv-4183 (FSH)

**NOTICE OF MOTION TO
DISMISS THE COMPLAINT**

TO: Barbara Quackenbos, Esq.
Sills Cummis Radin Tischman
Epstein & Gross, PA
One Riverfront Plaza
Newark, New Jersey 07102
Attorneys for Plaintiffs

Peter J. Heck, Esq.
Del Mauro, DiGiaino & Knepper, P.C.
8 Headquarters Plaza, North Tower
Morristown, New Jersey 07960
Attorneys for Defendant
Guardian Life Insurance Company of America

FILED

APR 25 2002

AT 8:30 M
WILLIAM T. WALSH
CLERK

COUNSEL:


PLEASE TAKE NOTICE that on May 28, 2002, at 10 o'clock in the forenoon, or as soon thereafter as counsel may be heard, the undersigned attorneys for defendants Physicians Health Services, Inc. and Physicians Health Services of New Jersey, Inc. (collectively "PHS") shall apply to the United States District Court for the District of New Jersey, at the United States Post Office & Courthouse Building, Federal Square, Newark, New Jersey 07101, before the Honorable Faith S. Hochberg, U.S.D.J., for an Order dismissing the Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6);

PLEASE TAKE FURTHER NOTICE that we shall rely on the Brief and Affidavit submitted herewith;

PLEASE TAKE FURTHER NOTICE that we respectfully request oral argument.

McCARTER & ENGLISH, LLP
Attorneys for Defendants
Physicians Health Services, Inc. and
Physicians Health Services of New Jersey, Inc.

By:



B. John Pendleton, Jr.
A Member of the Firm

DATED: April 25, 2001

McCARTER & ENGLISH, LLP

100 Mulberry Street

Four Gateway Center

Newark, New Jersey 17102

Attorney for Defendants

Physicians Health Services, Inc. and

Physicians Health Services of New Jersey, Inc.

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Defendants.

Docket No. 2:01-cv-4183 (FSH)

**CERTIFICATION
OF SERVICE**

ANTHONY F. YACULLO, of full age, hereby certifies as follows:

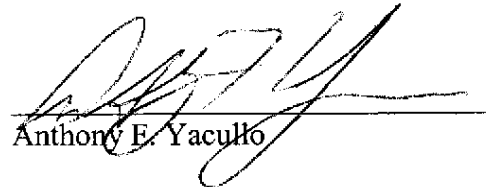
1. I am an attorney-at-law of the State of New Jersey and am an associate of the firm of McCarter & English, LLP, attorneys for defendants Physicians Health Services, Inc. and Physicians Health Services of New Jersey, Inc. (collectively "PHS") in this case. I am fully familiar with the facts set forth herein.

2. On April 25, 2002, I caused a true and correct copy of PHS's Notice of Motion to Dismiss, Brief and Affidavit of Christine L. Haus in Support of the Motion to Dismiss, and a proposed Order, to be served by UPS overnight delivery to:

Barbara Quackenbos, Esq.
Sills Cummis Radin Tischman
Epstein & Gross, PA
One Riverfront Plaza
Newark, New Jersey 07102
Attorneys for Plaintiffs

Peter J. Heck, Esq.
Del Mauro, DiGiaino & Knepper, P.C.
8 Headquarters Plaza, North Tower
Morristown, New Jersey 07960
Attorneys for Defendant
Guardian Life Insurance Company of America

I certify that the foregoing statements made by me are true. I understand that if
any of the foregoing statements made by me are willfully false, I am subject to punishment.


Anthony E. Yacullo

Dated: April 25, 2002